

Member of the Parliament of Georgia

To the Head of the Organizational Department
of the Parliament of Georgia,
Mrs. Eter Svianadze,

Mrs. Svianadze,

In accordance with Article 45(1) of the Constitution of Georgia and Article 99(1) and (2) of the Rules of Procedure of the Parliament of Georgia, Article 101(1)(a) and Article 102(1) we present the draft laws: “On Registration of Foreign Agents” and “On Amendments to the Criminal Code of Georgia”.

Please put the proposed draft laws on the agenda for commencement of further procedures.

Sincerely,

Signatures:

Members of the Parliament of Georgia:

1. Sozar Subari -----
2. Dimitri Khundadze -----
3. Mikheil Kavelashvili -----
4. Guram Macharashvili -----
5. Irakli (Dachi) Beraia -----
6. Viktor Japaridze -----

Draft

Law of Georgia on
“On Registration of Foreign Agents“

Article 1.

For purposes of this Law, the following terms shall have the following meanings:

- a) person - an individual, partnership, association, corporation, organization, or any other combination of individuals;

- b) foreign principal -
 - b. (a) a government of a foreign country and a foreign political party;

 - b. (b) a person outside of Georgia, unless it is established that such person is an individual and a citizen of and domiciled within Georgia, or that such person is not an individual and is created by the laws of Georgia and has its principal place of business within Georgia;

 - b. (c) a partnership, association, corporation, organization, or other combination of persons created under the laws of or having its principal place of business in a foreign country;

- c) agent of a foreign principal - any person who acts as an agent, representative, employee, or servant, or any person who acts in any other capacity at the order, request, or under the direction or control, of a foreign principal or of a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal, and who directly or through any other person;

- (c) Except [Except] as provided in subsection (d) of this section, the term "agent of a foreign principal" means --
 - c. (a) engages within Georgia in political activities for or in the interests of such foreign principal;

 - c. (b) acts within Georgia as a public relations counsel, publicity agent, information-service employee or political consultant for or in the interests of such foreign principal;

c. (c) within Georgia solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the interest of such foreign principal;

c. (d) within Georgia represents the interests of such foreign principal before any agency of the Government of Georgia.

Note:

1. An agent of a foreign principal is also considered to be any person who performs the action provided for by subsection "c" of this article without any agreement, as well as any person who presents himself as an agent of a foreign principal.

2. A media outlet shall not be considered an agent of a foreign principal if it is created in accordance with Georgian legislation, it is at least 80 per centum beneficially owned by a citizen of Georgia and is not directed, financed or supervised by a foreign principal.

d) political activities - any activity that the person engaging in believes will, or that the person intends to, in any way influence any agency or official of the Government of Georgia or any section of the public within Georgia with reference to formulating, adopting, or changing the domestic or foreign policies of Georgia or with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party;

e) government of a foreign country - any person or group of persons exercising sovereign de facto or de jure political jurisdiction over any country, other than Georgia, or over any part of such country, and includes any subdivision of any such group and any group or agency to which such sovereign de facto or de jure authority or functions are directly or indirectly delegated;

f) foreign political party - any organization or any other combination of individuals having for an aim or purpose, or which is engaged in any activity devoted to the administration or control of a government or influencing the administration of a government;

g) public-relations counsel - any person who engages directly or indirectly in informing, advising, or in any way representing a principal in any public relations matter;

h) political consultant - any person who engages in informing or advising any other person with reference to the domestic or foreign policies of Georgia or the political or public interest, policies, or relations of a foreign country or of a foreign political party.

Article 2.

Article 3 of this Law shall not apply to the following agents of foreign principal:

- a) A duly accredited diplomatic or consular officer or any member of the staff of a foreign government;
- b) Any official of a foreign government;
- c) Any person engaging in charitable activities;
- d) Any person engaging in activities in furtherance of bona fide religious, scholastic, academic, or scientific pursuits or of the fine arts;
- e) Any person qualified to practice law, insofar as he/she engages or agrees to engage in the legal representation of a disclosed foreign principal before any court of law;
- f) Any agent of a person described in subsection b. (b) and b. (c) of Article 1 of this Law if the agent has engaged in lobbying activities and has registered under the Law of Georgia on Lobbying in connection with the agent's representation of such person or entity.

Article 3.

1. Every person who becomes an agent of a foreign principal shall file with the Prosecutor General of Georgia a registration statement as required by subsection "c" of Article 1 of this Law.
2. Every person who becomes an agent of a foreign principal shall, within ten days thereafter, file with the Prosecutor General a registration statement provided for by subsection "c" of Article 1 of this Law.
3. The registration statement stipulated by the first section of this Article shall include the following:
 - a) Registrant's name, ID number, address, nationality and citizenship;
 - b) If an association, corporation, organization, or any other combination of individuals, the name, residence addresses, and nationality of each director and officer specified in subsection "a" of this subsection. The charter of the relevant association, corporation, organization, or any other combination of individuals, shall be submitted with a statement;
 - c) A complete list of an association, corporation, organization, or any other combination of individuals' employees;
 - d) The name and address of every foreign principal for whom the registrant is acting;
 - e) The character of the business or other activities of every such foreign principal;
 - f) Information on the financing received from a foreign principal as well as on the measures of control and supervision exercised by the foreign principal towards the registrant;
 - g) Information on written and oral agreements concluded with the foreign country, as well as information on actions taken by the registrant on the basis of these agreements. Copies of each written agreements must be submitted with the registration statement;

- h) A detailed statement of the money and other things of value received from a foreign principal spent or disposed of by the registrant.
- 4. In addition to the information provided for by subsection 2 of this Article, the list of other information to be included in the registration statement under the subsection 1 of the same Article, and the list of other documents to be submitted along with the same statement, shall be determined by the Prosecutor General of Georgia having due regard for the national security and the public interest.
- 5. Every agent of a foreign principal who has filed a registration statement required by subsections 2 and 3 of this Article shall, within one month after the expiration of each period of six months succeeding such filing, file with the Prosecutor General of Georgia a supplement thereto. The Prosecutor General of Georgia, having due regard for the national security and the public interest, shall be entitled to request an agent of a foreign principal to furnish the information referred to in subsections 2 and 3 of this Article at more frequent intervals.
- 6. All information and documents filed by the registrant/an agent of a foreign principal pursuant to this article shall be publicly available. The procedure for disclosure of this information shall be determined by the Prosecutor General of Georgia.

Article 4.

- 1. An agent of a foreign principal furnishing any information related to the interests of a foreign principal by mail or by any means, not later than forty-eight hours after the beginning of the transmittal thereof, shall submit the same information to the Prosecutor General of Georgia;
- 2. For the Prosecutor General of Georgia, the information provided for by subsection 1 of this Article shall be publicly available. The procedure for furnishing this information shall be determined by the Prosecutor General of Georgia.
- 3. An agent of a foreign principal is not allowed to apply to any agency or official of the Government of Georgia for or in the interests of such foreign principal to obtain information relating to Georgia's domestic or foreign policies without stating in advance about his registration as an agent of a foreign principal.
- 4. Before giving explanations related to a foreign principal to the Temporary Investigative Commission established in the Parliament of Georgia, an agent of the foreign principal shall provide the Commission the most recent information about his registration as an agent of a foreign principal.

Article 5.

1. Every agent of a foreign principal registered shall keep and preserve while he is an agent of a foreign principal all written records with respect to all his activities. Every agent of a foreign principal shall preserve this information for a period of three years following the termination of such status.
2. The list of information to be kept and preserved under the subsection 1 of this Article is determined by the Prosecutor General of Georgia having due regard for the national security and the public interest.

Article 6.

The fulfillment of the requirements by an agent of a foreign principal (except in the case when an agent of a foreign principal is a natural person) stipulated by this Law must be ensured by the person in charge of an agent of a foreign principal.

Article 7.

In case of failure of any such agent of a foreign principal to comply with any of the requirements of this subchapter shall be subject to liability under the legislation of Georgia therefor.

Article 8.

1. Within ten days from the effective date of Articles 1-7 of this Law the person referred to in subsection "c" of Article 1 shall apply to the Prosecutor General of Georgia in compliance with the procedure prescribed by this Law.
2. The Prosecutor General of Georgia shall adopt the relevant legal acts provided for by this Article within sixty days after the entry into force of this Law.

Article 9.

1. This Law, with the exception of Articles 1-7, shall enter into force immediately upon its publication.
2. Articles 1-7 of this Law shall take effect on the 60th day following its promulgation.

President of Georgia

Salome Zourabichvili

Explanatory Note

Draft Law of Georgia

“On Registration of Foreign Agents”

a) General information on the draft law, specifying:

a.a) the reason for adopting the draft law:

a.a.a) the problem the draft law aims to solve:

The purpose of the draft law is to ensure transparency of the foreign influence. Therefore, it is necessary to adopt legislative act, which defines the idea of an agent of a foreign principal, registration of the entities as an agent of a foreign principal, and regulation of other issues related to transparency of their activities. In addition, it is important to ensure that this legislative act is used for information purposes, and shall not limit regular activities of the entities registered as the agents of a foreign principal.

It is noteworthy, that similar legislation and practice exists in countries such as the USA, Australia, Israel; in particular, Foreign Agents Registration Act (FARA)¹ is available in the USA; in 2018, Australia referenced the USA law and approved Foreign Influence Transparency Scheme Act (FITSA)²; In 2016, the Knesset, the legislature of Israel, made a similar amendment to the 2011 Law on Disclosure Duty of Bodies Supported by a Foreign Political Party³.

Therefore, this draft law defines the idea of an agent of a foreign principal, and in order to ensure transparency of the foreign influence regulates registration of the entity as an agent of a foreign principal, and other issues related to transparency of activities carried out by an agent of a foreign principal.

a.a.b) the necessity for adoption of the law to solve the existing problem:

The issue stated in the subsection above (a.a.a), taking into consideration the purpose and the idea, requires implementation of legislative amendments.

a.b) expectations of the draft law;

After approval of the draft law the issues indicated in the subsection above (a.a.a) will be regulated.

a.c) the essence of the draft law;

The draft law mainly regulates the following issues:

- Definition of an agent of a foreign principal, and concept of foreign principal;

¹ Please see <https://www.justice.gov/nsd-fara/fara-index-and-act>

² Please see <https://www.legislation.gov.au/Details/C2018A00063>

³ Please see https://www.nevo.co.il/law_html/law01/500_452.htm

- Issue of registration of the entity as an agent of a foreign principal;
- The issue of ensuring the publicity of the registration statement as an agent of a foreign principal and other appropriate documents;
- The issue of submission of relevant documentation by an entity registered as an agent of a foreign principal.

a.d) the relation of the draft law with the governmental programme and with the existing action plan in a relevant field, if any (when the draft law of initiated by the Government of Georgia);

The draft law is not initiated by the government of Georgia.

a.e) the principle of selecting the date for the draft law to enter into force, and if retroactive effect is granted to a law, the relevant reasoning for the aforementioned;

The main part of this draft law shall be enforced 60 days after its publication, as taking into consideration the content of the norms defined under the draft law, a certain period for preparation is required.

Article 8 and 9 of this draft law shall be enforced upon its publication, as taking into consideration the content of the norms defined under these articles, do not require expansion of enforcement term.

According to the draft law, if an entity, that at the moment of enactment of this law meets the criteria of an agent of a foreign principal as defined under this draft law, is obliged to apply to the General Prosecutor of Georgia within the timeframe defined under this draft law and request registration as an agent of a foreign principal. Following this process, other relevant procedures defined under the draft law will be implemented. Existence of this norm is required, as in case of its absence, the obligation to register as an agent of a foreign principal would not apply to the entities, that at the time of the entry into force of this law, meet the criteria of an agent of a foreign principal defined by this draft law.

a.f) the reasons for reviewing the draft law in an expedited manner and the relevant reasoning for it (if the initiator of the draft law requires the draft law be reviewed in an expedited manner);

Expedited review and approval of the draft law was not requested.

b) the assessment of a financial impact of the draft law in the medium term (the year the draft law enters into force and the succeeding three years).

b.a) the source of funding of necessary expenses related to the adoption of the draft law;

Adoption of the draft law will not require allocation of additional funding from the state budget. Taking into consideration the draft law, required expenses will be covered from

the allocations determined by the state budget of Georgia for the Prosecutor's Office of Georgia.

b.b) the impact of the draft law on the revenue part of the budgets of the State, Autonomous Republics and/or Local self-government bodies:

The draft law envisages the issue of imposing a fine in case of evading registration as an agent of a foreign principal or in case of failure to fulfill the relevant requirements defined under the draft law. The amount of the fines will depend on the number of violations.

b.c) the impact of the draft law on the expenditure part of the budgets of the State, Autonomous Republics and/or Local self-government bodies:

The draft law related expenditures of the General Prosecutor's Office of Georgia will depend on the number of proceedings, and will be covered from the state budget allocated for the General Prosecutor's Office of Georgia.

b.d) new financial commitments of the State, indicating the direct financial liabilities (internal or foreign liabilities) to be assumed by the State or an entity within its system, on the basis of the draft law;

The draft law does not envisage additional financial commitments of the state.

b.e) expected financial results of the draft law for those persons to whom the draft law applies, indicating the character and the line of the impact on the natural and legal persons that might be directly affected by the actions defined under the draft law;

The draft law envisages the issue of imposing a fine in case of evading registration as an agent of foreign principal or in case of non-fulfillment of the relevant requirements defined under the draft law. The amount of the fines will depend on the number of violations.

b.f) the amount of a tax, duty or another fee (financial payment), as determined by the draft law, to an appropriate budget and the principle for determining the amount;

The draft law envisages the issue of imposing a fine in case of evading registration as an agent of foreign principal or in case of non-fulfillment of the relevant requirements defined under the draft law. When determining the amount of these fines, it is taken into account that they have a preventive effect in relation to the commission of the corresponding violation.

b¹) the evaluation of the impact of the draft law on the legal status of a child;

The draft law will have no impact on the legal status of a child.

b²) Evaluation of the impact of the draft law on the gender equality:

Impact of the draft law on the gender equality conditions is not expected.

c) relation of the draft law with international legal standards, specifying:

c.a) the relation of the draft law with European Union (EU) legislation:

The draft law does not contradict the European Union (EU) legislation.

c.b) the relation of the draft law with the obligations of Georgia for joining international organizations;

The draft law does not contradict the obligations of Georgia for joining international organizations.

c.c) the relation of the draft law with bilateral and multilateral agreements and treaties of Georgia, and if there is an agreement/treaty linked to drawing up the draft law, also an appropriate article and/or paragraph;

The draft law does not contradict bilateral and multilateral agreements and treaties. Development of the draft law is not related to such agreement/treaty.

c.d) an EU legal act, if any, the obligation of approximation to which is proceeding from the 'Association Agreement between Georgia, of the one part, and the European Union and the European Atomic Energy Community and their Member States, of the other part', and from other bilateral and multilateral agreements of Georgia concluded with the European Union;

Does not exist.

d) consultations received in the draft law preparation process, specifying:

d.a) a state, non-state and/or international organization/institution, expert, working group, if any, that participated in the preparation of the draft law;

Does not exist.

d.b) evaluation of an organization/institution, working group, or an expert, if any, participating in preparation of the draft law, with regard to the draft law;

Does not exist.

d.c) experience of other countries in the implementation of laws similar to the draft law; review of the experience that was used as an example when drawing up the draft law, if such review was prepared;

Similar legislation and practice exist in countries such as the USA, Australia, Israel; in particular, Foreign Agents Registration Act (FARA) is available in the USA; in 2018, Australia referenced the USA law and approved Foreign Influence Transparency Scheme Act (FITSA); In 2016, the Israeli Knesset made a similar amendment to the 2011 law on the obligation to disclose entities supported by a foreign political party.

e) the author of the draft law;

Members of the parliament of Georgia: Sozar Subari, Dimitri Khundadze, Mikheil Kavelashvili, Guram Macharashvili, Irakli (Dachi) Beraia, Victor Japaridze.

f) the initiator of the draft law;

Members of the parliament of Georgia: Sozar Subari, Dimitri Khundadze, Mikheil Kavelashvili, Guram Macharashvili, Irakli (Dachi) Beraia, Victor Japaridze.

Draft

Law of Georgia
On Amendment to the Criminal Code of Georgia

Article 1. Article 355¹ with the following content shall be added to the Criminal Code of Georgia (Legislative Herald of Georgia, №41 (48), 1999, Article 209):

“Article 355¹. Violation of the law of Georgia “On Registration of Foreign Agents”
Failure to fulfil or improper enforcement of the requirements defined under the law of Georgia “On Registration of Foreign Agents” shall be punished by a fine or imprisonment for up to 5 years.

Note:

For violations provided for by this article, fine shall be applied to the legal entities.”

Article 2. This law shall be entered into force on the 60th day after its publication.

President of Georgia

Salome Zourabichvili

Explanatory Note

Draft Law of Georgia

On Amendment to the Criminal Code of Georgia

a) General information on the draft law, specifying:

a.a) the reason for adopting the draft law;

a.a.a) the problem the draft law aims to solve;

According to the draft law "On Registration of Foreign Agents" included in the package of legislative amendments, certain obligations are imposed on the relevant entities. In order to ensure effective implementation of these obligations, it is necessary to define liabilities for non-fulfilment or improper fulfilment of the obligations provided for by this law.

a.a.b) the necessity for adoption of the law to solve the existing problem;

The issue stated in the subsection above (a.a.a) taking into consideration its purpose and the essence, requires implementation of legislative amendments.

a.b) expectations of the draft law;

After approval of the draft law the issues indicated in the subsection above (a.a.a) will be regulated.

a.c) the essence of the draft law;

According to the draft law, criminal liability is defined for non-fulfilment or improper fulfilment of the obligations defined under the draft law of Georgia "On Registration of Foreign Agents".

a.d) the relation of the draft law with the governmental programme and with the existing action plan in a relevant field, if any (when the draft law of initiated by the Government of Georgia);

The draft law is not initiated by the government of Georgia.

a.e) the principle of selecting the date for the draft law to enter into force, and if retroactive effect is granted to a law, the relevant reasoning for the aforementioned;

Taking into consideration that draft law "On Registration of Foreign Agents" included in the package of legislative amendments, will be enacted on the 60th day after publication, it is necessary to enforce the amendment to the Criminal Code of Georgia on the 60th day upon its publication. The law does not envisage retroactive effect.

a.f) the reasons for reviewing the draft law in an expedited manner and the relevant reasoning for it (if the initiator of the draft law requires the draft law be reviewed in an expedited manner);

Expedited review and approval of the draft law was not requested.

b) the assessment of a financial impact of the draft law in the medium term (the year the draft law enters into force and the succeeding 3 years).

b.a) the source of funding of necessary expenses related to the adoption of the draft law;

If the expenditures are required, then expenses related to the adoption of the draft law will be funded from the state budget of Georgia. These costs will be covered in the scope of allocations to the relevant investigative authority.

b.b) the impact of the draft law on the revenue part of the budgets of the State, Autonomous Republics and/or Local self-government bodies;

The draft law impacts the revenue part of the state budget in terms of increase of the revenue, as the fine is defined for the violation.

b.c) the impact of the draft law on the expenditure part of the budgets of the State, Autonomous Republics and/or Local self-government bodies;

If the expenditures are required, then draft law related costs will be funded from the state budget of Georgia. These costs will be covered in the scope of allocations to the relevant investigative authority.

b.d) new financial commitments of the State, indicating the direct financial liabilities (internal or foreign liabilities) to be assumed by the State or an entity within its system, on the basis of the draft law;

The draft law does not envisage additional financial commitments of the state.

b.e) expected financial results of the draft law for those persons to whom the draft law applies, indicating the character and the line of the impact on the natural and legal persons that might be directly affected by the actions defined under the draft law;

The draft law envisages the issue of imposing a fine in case of evading registration as an agent of foreign principal or in case of non-fulfillment of the relevant requirements defined under the draft law. The amount of the fines will depend on the number of violations.

b.f) the amount of a tax, duty or another fee (financial payment), as determined by the draft law, to an appropriate budget and the principle for determining the amount;

The draft law envisages imposing a fine in case of violation.

b1) the evaluation of the impact of the draft law on the legal status of a child;

The draft law will have no impact on the legal status of a child.

b²) Evaluation of the impact of the draft law on the gender equality:

Impact of the draft law on the gender equality conditions is not expected.

c) relation of the draft law with international legal standards, specifying;

c.a) the relation of the draft law with European Union (EU) legislation;

The draft law does not contradict European Union (EU) legislation.

c.b) the relation of the draft law with the obligations of Georgia for joining international organizations;

The draft law does not contradict the obligations of Georgia for joining international organizations.

c.c) the relation of the draft law with bilateral and multilateral agreements and treaties of Georgia, and if there is an agreement/treaty linked to drawing up the draft law, also an appropriate article and/or paragraph;

The draft law does not contradict bilateral and multilateral agreements and treaties. Development of the draft law is not related to such agreement/treaty.

c.d) an EU legal act, if any, the obligation of approximation to which is proceeding from the 'Association Agreement between Georgia, of the one part, and the European Union

and the European Atomic Energy Community and their Member States, of the other part', and from other bilateral and multilateral agreements of Georgia concluded with the European Union;

Does not exist.

d) consultations received in the draft law preparation process, specifying:

d.a) a state, non-state and/or international organization/institution, expert, working group, if any, that participated in the preparation of the draft law;

Does not exist.

d.b) evaluation of an organization/institution, working group, or an expert, if any, participating in preparation of the draft law, with regard to the draft law;

Does not exist.

d.c) experience of other countries in the implementation of laws similar to the draft law; review of the experience that was used as an example when drawing up the draft law, if such review was prepared;

No such review was prepared in the process of draft law development.

e) the author of the draft law;

Members of the parliament of Georgia: Sozar Subari, Dimitri Khundadze, Mikheil Kavelashvili, Guram Macharashvili, Irakli (Dachi) Beraia, Viktor Japaridze.

f) the initiator of the draft law;

Members of the parliament of Georgia: Sozar Subari, Dimitri Khundadze, Mikheil Kavelashvili, Guram Macharashvili, Irakli (Dachi) Beraia, Viktor Japaridze.